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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1187 OF 2005
IN
SUIT NO.1129 OF 2005

Videocon International Ltd. and another).. Plaintiffs

Versus

Oriental Bank of Commerce).. Defendant

Mr.Virag Tulzapurkar, Senior Counsel, i/b.DSR Associates for the Plaintiffs.

None present for the Defendant.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 3RD JULY 2006

P.C.:

. The Plaintiffs have filed the present Motion seeking the following reliefs :-

(a) That the Defendant by themselves, their servants, agents or otherwise howsoever be restrained by an order and injunction of this Hon'ble Court from in any manner making, publishing, repeating or republishing the defamatory statements contained in their communication/letter to the R.B.I. inducing R.B.I. to publish the same on a computer disc including the extract annexed at Exhibit "F" to the Plaint including the statements that the Account of the Plaintiffs is N.P.A. or that the Plaintiffs are defaulters or any other statements either similar thereto or of the same nature or otherwise which are defamatory statements or otherwise any statements which are in any manner defamatory of the Plaintiffs or of its Officers/Directors or any of them;

(b) That pending the hearing and final

disposal of the Suit, the Defendant be ordered and directed to address a letter to R.B.I. to delete the name of the Plaintiffs from the list of defaulters and to withdraw the letter and/or the communication in any form and to intimate the same to the R.B.I. and also give public notice thereof in such manner as this Hon'ble Court directs;

(c) That pending the hearing and final disposal of the Suit, the Defendant be ordered and directed by a mandatory order of this Hon'ble Court to make and publish a retraction and an apology to the Plaintiffs for the defamatory communication to the R.B.I./statements made by the Defendant in such form and manner as this Hon'ble Court may direct;

2. According to the Plaintiffs, they were given credit facilities by Global Trust Bank. Global Trust Bank has merged with the Defendant Bank. It appears that the Defendant Bank informed Reserve Bank of India (RBI) that the Plaintiffs were defaulters in respect of the credit facility given to them. The Plaintiffs came to know of this when it was brought to their notice by their other bankers. It appears that State Bank of Bikaner & Jaipur had obtained a list of defaulters published on 31st March 2004 by the RBI and the Plaintiffs' names figure in that list. Correspondence ensued between the Plaintiffs and the Defendant wherein the Plaintiffs pointed out that they were not defaulters. It appears that on 7th March 2005, the Defendant informed RBI that its Board of Directors had resolved on 24th December 2004 that the Plaintiff No.1's

account should be upgraded to Standard category and that the Plaintiff should not be treated as a defaulter. A similar letter was written by the Defendant on 24th March 2005 calling upon RBI to delete the name of Plaintiff No.2 from the list of defaulters.

3. In the affidavit in reply to the Motion, the Defendant Bank has mentioned that it did not treat the Plaintiffs as defaulters and that it had written to the RBI to delete the Plaintiffs' names from the list of defaulters. It appears that despite this, there is no intimation that the RBI has in fact deleted the name of the Plaintiffs. Hence, the Plaintiffs have filed the Motion for the aforesaid reliefs.

4. Nobody appears for the Defendants though served.

5. It is obvious that the Plaintiffs are not defaulters in respect of the accounts as they stood prior to the filing of the Suit. Hence Notice of Motion made absolute in terms of prayer (a), restricted to the accounts as they stood prior to the filing of the Suit.

6. Notice of Motion also made absolute in terms of prayer (b).

7. The Defendant Bank to intimate to the Reserve

Bank of India within a week from today to delete the Plaintiffs' names from the list of defaulters.